



**Request for Proposal**  
**Automated Speed Enforcement System**  
**for the City of Memphis**  
**RFP No. 27324**

**Date Issued: April 28, 2015**

**Proposal Submission Deadline:**

**May 22, 2015**

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## 1. OVERVIEW

### 1.1 PURPOSE OF THIS RFP

The City of Memphis (“City”) is seeking qualified Vendors to implement and maintain an automated speed enforcement system consisting of fixed units, mobile units, and integrated with red light enforcement/ speed enforcement units.

### 1.2 OVERVIEW OF PROJECT

Provide all equipment, financing, labor, materials, supervision, and services required to install, test, and maintain a new automated speed enforcement (ASE) system in accordance with these Contract Documents.

Proposals will be received for the following goods and services:

- 1.2.1 Financing the improvements, enabling the City to avoid an upfront expenditure;
- 1.2.2 Installing fixed speed enforcement units at up to 15 locations plus providing an additional ten mobile automated speed enforcement units;
- 1.2.3 Providing a system capable of integrating with the existing red light enforcement system;
- 1.2.4 Training City employees on equipment use and operation, including the technical knowledge required for court purposes, and deployment techniques.

### 1.3 BUSINESS ETHICS

- 1.3.1 Vendor must provide a list of all automated red light enforcement camera systems and speed enforcement contracts that it has been awarded in the last five (5) years.
- 1.3.2 Vendor must provide an explanation for any contract that was terminated or for which service was no longer provided during the period prior to the end date of the contract.
- 1.3.3 Vendor must disclose any and all civil lawsuits filed against Vendor, its officers, directors, associates, partners, limited subcontractors, consultants, affiliates, agents or employees in any jurisdiction in the United States arising out of or in connection with automated red light camera enforcement or speed enforcement within the last five (5) years.
- 1.3.4 Vendor must provide a comprehensive list of any of its officers, directors, associates, partners, limited partners, individual owners, consultants, affiliates, agents or employees who have been officially notified of, charged with, indicted or convicted of any federal or state law in the United States arising out of or in connection with automated red light enforcement or speed enforcement within the last five (5) years.
- 1.3.5 Vendor must certify that all information provided to the City is true and correct and can be relied upon in awarding the contract contemplated hereunder. Any false or misleading information shall be grounds for the City to disqualify the Vendor’s response to this proposal from consideration.

### 1.4 VENDOR EXPERIENCE

- 1.4.1. Each proposal must include a complete list of cities where the camera system proposed by Vendor is currently in use, the operational starting date for each city, the number of continuous years the system has been operational, the number of street segments/ intersections /approaches covered, and the number of camera systems in each city.

- 1.4.2.** Vendor must document its experience in providing large scale and full service Automated Enforcement Systems and services to cities of similar size to the City of Memphis.
- 1.4.3.** Vendor must provide at least three references to be considered for this RFP.
- 1.4.4.** Vendor shall provide information that supports any other vendor experience that may be relevant to the success of the City's ASE System and service programs.
- 1.4.5.** Vendor must list the name, address, and telephone number of all subcontractors and vendors proposed for this project. Include a brief qualifications summary discussing the responsibilities and experience of each firm or individual and the percentage of services to be provided by each firm or individual.

## 1.5 STRUCTURE OF RFP

The RFP s structured as follows:

- Section 1: Overview
- Section 2: Specifications
- Section 3: Proposal Response
- Section 4: Instruction on RFP Process
- Section 5: Evaluation Model
- Section 6: RFP Terms and Conditions
- Section 7: Attachments and Exhibits

## 2. SPECIFICATIONS

### 2.1 SUMMARY OF WORK

#### 2.1.1. PROJECT DESCRIPTION

Vendor is responsible for developing and submitting a scope of work that meets the goals and objectives of this project. To meet the City's objectives, the following minimum requirements must be met:

- 2.1.1.1. Vendor must provide a complete turnkey system, including supply, delivery, installation, signage, implementation, and maintenance of all equipment necessary for the operation of an ASE program and citation processing system that is fully compliant with State and Local Laws. For all required signage, the vendor shall provide the City with two (2) replacements for each sign required as part of the installation. The replacement signs shall be delivered to the Division of Engineering Sign Shop. The vendor will also be responsible for providing a sign legend with GPS installation coordinates for data entry into the City of Memphis sign records.
- 2.1.1.2. Vendor is responsible for issuance of warnings, notices, citations, summonses, follow up on notification, and past due processing.
- 2.1.1.3. Vendor shall process of all traffic citations and the preparation of evidence packages for Court.
- 2.1.1.4. Vendor shall operate of a toll-free telephone system for public inquirers.
- 2.1.1.5. Vendor shall conduct a public awareness/community relations education campaign (i.e., press releases, brochures, public service announcements, web site, etc.) in accordance with Section 2.4.6.
- 2.1.1.6. Vendor shall conduct training for the Police Services, Municipal Court, City Court Clerk, Information Systems, and other officials involved in the use of the system.
- 2.1.1.7. Per Tennessee Code Annotated (T.C.A.) 55-8-198(g), the City will provide the necessary roadway/intersection traffic studies, violation studies, pre-installation site monitoring, and site selection services. Final sites selected for installation will be provided to the vendor.
- 2.1.1.8. The term of the contract is subject to City Council Legislative approval. The initial term of the contract shall be seven years, beginning on the date of contract execution. The City shall have the option to renew the contract after the seventh year for up to five additional years. The total contract term, including the renewals if exercised by the City, shall not exceed 12 years. The contract may be terminated by mutual consent of the parties, or at the City's sole discretion, upon a 30 day written notice.

#### 2.1.2. WORK INCLUDED

- 2.1.2.1. Work includes furnishing and installing all ASE equipment and related equipment required for a complete system as specified herein.
- 2.1.2.2. Beyond providing the meters, certain activities are to be included:
  - 2.1.2.2.1. For each ASE, provide and install two City-approved enforcement camera warning signs in accordance with T.C.A..
  - 2.1.2.2.2. Where ASEs are installed, prepare and install mounting devices for ASEs as needed and in coordination with the City.
  - 2.1.2.2.3. Provide press-releases and public education materials for introducing the new system to the City.

#### 2.1.3. WORK SEQUENCE

- 2.1.3.1. Work shall be conducted to provide least possible interference to the activities of City's personnel, commercial traffic and public use of the parking.
  - 2.1.3.1.1. Provide traffic controls, signs and barricades, as required, to maintain safe, continuous vehicular and pedestrian traffic through installation areas.
  - 2.1.3.1.2. Protect adjacent public and private property from damage.

#### **2.1.4. CONTRACTOR USE OF PREMISES**

- 2.1.4.1. General: Limit use of premises to installation activities in areas indicated; allow for City occupancy and use by public.
  - 2.1.4.1.1. Confine operations to areas within Contract limits indicated. Portions of the site beyond areas in which installation operations are indicated are not to be disturbed.
  - 2.1.4.1.2. Keep driveways and entrances serving the off-street parking areas clear and available to the City and City's tenants at all times. Do not use these areas for parking or storage of materials. Schedule deliveries to minimize space and time requirements for on-site storage of materials and equipment.
  - 2.1.4.1.3. No Contractor employees shall park on site.
  - 2.1.4.1.4. Noise, dust emissions and vibrations shall be controlled to minimize construction and inconvenience to the public.

#### **2.1.5. CITY OCCUPANCY**

- 2.1.5.1. Partial City Occupancy: City reserves the right to occupy and to use equipment and completed areas of Work, prior to Substantial Completion provided that such occupancy does not interfere with completion of Work. Such use and partial occupancy shall not constitute acceptance of total Work.

#### **2.1.6. CITY-FURNISHED ITEMS**

- 2.1.6.1. City will not furnish any items for this project..

## **2.2 ASE EQUIPMENT**

Vendor shall provide, install, and maintain all equipment which includes, but is not limited to, poles, cabinets, cameras, signage, wiring and operational equipment at selected street segments and/or intersections. The Vendor shall address the following proven equipment capabilities:

- 2.2.1.** The Camera System shall use a digital media. Film based systems are not acceptable. Proposer must submit a minimum of four example sets of violation photos in different lighting and weather conditions, including (1) daytime – fair weather, (2) daytime – rain and snow, (3) night time – fair weather, and (4) night time – rain and snow. Systems should use a combination of high resolution still images with an output in excess of 3000 x 2000 pixels per frame/image and full motion digital video technologies.
- 2.2.2.** All Camera System component operations shall be synchronized to a single, standard, independent, external and verifiable time and date source.
- 2.2.3.** The system must imprint violation information on the image at the point-of-capture. Information specific to the violation must include, but are not limited to: location, date, vehicle speed, and elapse time between images.
- 2.2.4.** The Camera System shall be modular in construction to facilitate rapid installation and maintenance.
- 2.2.5.** The Camera System shall generate secured violation evidence that can be communicated and processed using vendor supplied or operated photo enforcement processing systems.
- 2.2.6.** The system shall be capable of being flexibly configured to address the specific number of lanes to be enforced in each direction of travel at the site, including speed violations, simultaneous violations and consecutive violations. The Vendor shall specify the number of simultaneous and consecutive violations the proposed system can provide.
- 2.2.7.** Camera system shall be capable of accurately measuring speeds, detecting speed limit violations and photographing the incident.
- 2.2.8.** The equipment should be capable of deployment in a wide range of operating conditions (heavy traffic volumes, adverse weather conditions, road surface configuration) and across 4 lanes of moving traffic

- 2.2.9.** Night time vision must have a flash system or lighting beyond an ambient light at the location. The flash system or lighting must not solely rely on an ambient light.
- 2.2.10.** In order to minimize operator error, cameras should be automated as much as possible with regard to set up (aperture settings, focusing, leveling, etc.).
- 2.2.11.** The Camera System shall be secure from vandalism or tampering.
- 2.2.12.** The Camera System enclosures must be designed in such a fashion that maintenance, and other operations can be accomplished easily and quickly without creating a public safety hazard. Explain typical maintenance procedures.
- 2.2.13.** Vendor must provide a video component in conjunction with the digital camera system. The video must attach a verification video segment to each speed limit violation and each day's full 24 hours of video must be saved and be available to the City for viewing for up to ninety (90) days.
- 2.2.14.** Proposer shall detail its speed validation methodology and provide statistical information on accuracy of speed measurements. Explain what program or system the firm uses to confirm the ongoing accuracy of the speed measurements
- 2.2.15.** All ASE field equipment shall be installed in the City's rights-of-way with no encroachments onto private properties.

### 2.3. TECHNOLOGY REQUIREMENTS

- 2.3.1.** Vendor must propose and supply a product line that, to the best of its knowledge, is not obsolete or near obsolete. Should equipment or technological upgrades become available during the course of the project, vendor must offer the city the opportunity to upgrade the equipment at no charge. Only equipment or production models that have been satisfactorily demonstrated to the city, or that have a demonstrated record of successful deployment by other similar sized cities will be used. The vendor must document successful deployments by including the names and telephone numbers of contact persons as part of the reference requirements of this RFP.
- 2.3.2.** The equipment supplied must be of new manufacture (not used or demo units) and best quality, installed in accordance with approved recommendations of the manufacturer thereof, and must conform to the equipment specifications listed in this RFP.
- 2.3.3.** The equipment must provide readouts in miles per hour and be capable of recording speeds within an accuracy tolerance of plus or minus one mile per hour (+/- 1 mph) of the actual speed of target vehicles. Cameras must be capable of high-speed image capture on multi-lane streets (a minimum of four lanes of traffic) and be capable of capturing high resolution images of multiple offending vehicles simultaneously.
- 2.3.4.** Usable image rate –
  - 2.3.4.1. The City wants a system with a high capture rate of images of such quality as to support the issuance of tickets. Vendor shall provide a detailed breakdown showing its proposed system's usable image capture rate based on the last six months of operation from a reference jurisdiction most similar in size.
  - 2.3.4.2. The data must reflect the results from cameras and systems which are identical to the systems being proposed herein.
  - 2.3.4.3. Vendor must provide six (6) sample images of speed on green, fixed speed and mobile speed violations.
- 2.3.5.** Camera Unit Housing
  - 2.3.5.1. Sealed to be weather, dust, water and spray resistant,
  - 2.3.5.2. Securely lockable,
  - 2.3.5.3. Capable of being securely mounted to existing intersection or roadway infrastructure upon agreement with the facility owner,
  - 2.3.5.4. Capable of being pole-mounted on a proposer supplied pole,
  - 2.3.5.5. Camera enclosures must be vandal and tamperproof. All glass openings must be bullet resistant,

2.3.5.6. Note height of pole mounting and if system requires bucket trucks for maintenance purposes.

## 2.4. AUTOMATED SPEED ENFORCEMENT SYSTEM REQUIREMENTS

The automated speed enforcement system shall:

- 2.4.1.1. Be capable of consistently photographing license plates regardless of glare or materials used to obscure the license plate from clear view at various viewing angles;
- 2.4.1.2. Be capable of accurately monitoring up to four (4) lanes at once per location;
- 2.4.1.3. Be as automated as possible with regard to camera set-up (i.e. aperture settings, focusing and able to be programmed to operate at selected times and with various speed capture settings);
- 2.4.1.4. Be capable of cameras operating effectively during periods of night time operation and all weather conditions, including extreme heat and cold without exceeding manufacturer's limits, fog, rain and snow. Vendors shall state the limits of the system.
- 2.4.1.5. At the Vendor's expense undergo an annual calibration check performed by an independent calibration laboratory. A certificate of calibration shall be issued by the independent calibration laboratory, which will be kept on file at the City Court Clerk's office . Each Camera shall have the ability to self-test its calibration prior to producing a recorded image.
- 2.4.1.6. For each mobile speed enforcement device, be able to be deployed in a vehicle, unattended trailer or other suitable vehicle/deployment setting. Vendor shall submit images and a detailed list of all equipment provided with each solution.
- 2.4.1.7. For each mobile speed enforcement device, provide vehicles provided by the vendor at no additional cost to the City and shall have the following minimum requirements:
  - 2.4.1.7.1. Current registration, insurance and emissions stickers
  - 2.4.1.7.2. Interface for transferring images to vendor for initial review
  - 2.4.1.7.3. All electronic equipment necessary for operations
  - 2.4.1.7.4. Required signage indicating that an Automated Photo Enforcement System is being utilized
- 2.4.1.8. Be capable of on-site or remote activation and maintenance support;
- 2.4.1.9. Record multiple image sets for each scene with license plate evidentiary requirements required to prove a violation. All images in each set shall display data bars as specified;
- 2.4.1.10. Count the number of violations;
- 2.4.1.11. Allow a malfunction to be easily identified and debugged on-line;
- 2.4.1.12. Communicate error messages. Record date and time of system shutdown in the event of a malfunction;
- 2.4.1.13. Record data pertinent to each violation in a flexibly configured data bar that is embedded with each scene, license plate and any additional information/images that may be used to prove the violation;
- 2.4.1.14. Be direction sensitive.
- 2.4.1.15. The data bar embedded to violation images shall include the following information for each violation:
  - 2.4.1.15.1. Unique violation identifier incorporating the City of Memphis ID
  - 2.4.1.15.2. Date
  - 2.4.1.15.3. Time (24-hour clock)
  - 2.4.1.15.4. Direction of travel
  - 2.4.1.15.5. Traffic signal phase (if combination speed/ red light enforcement unit)
  - 2.4.1.15.6. Time into the "red" phase (if combination speed/ red light enforcement unit )
  - 2.4.1.15.7. Vehicle lane of travel
  - 2.4.1.15.8. Camera ID

### 2.4.2. VIOLATION PROCESSING

- 2.4.2.1. The City of Memphis, City Court Clerk's office, Traffic Violations Bureau is responsible for collection of all fees and fines owed to the City related to traffic summons, citations and ordinance summons. Both the Tennessee Code Annotated 55-8-198 and City of Memphis Code of Ordinances 11-14 allow for unmanned traffic enforcement cameras.
- 2.4.2.2. The Vendor must be able to provide a robust, fully web-enabled and fully secure citation processing system that includes data processing, initial screening of data, prompt delivery of data to police for violation review and citation authorization, citation mailing, bad address notification, and maintenance of secure Internet-based violation viewing capability. The Vendor must be able to provide a notification system acceptable to the City, including approval of all forms and procedures. The Vendor will provide payment processing and collection functions using the Vendor provided system. The Vendor will be responsible for obtaining all registered owner information necessary to issue a citation.
- 2.4.2.3. From point of capture, all camera photos and accompanying video sequences must be capable of secure storage and transmission and capable of maintaining a secure chain of evidence. The Vendor shall describe its approach to maintaining security of evidence.
- 2.4.2.4. All access to the violation processing system for the purpose of pre-processing evidence, police authorization, notice printing, payment tracking, and generation of court evidence packages shall be Internet enabled and shall be accessible 24 hours a day, 7 days a week (24 x 7) for authorized users. The violation processing system shall provide the following functionality:
  - 2.4.2.5.
  - 2.4.2.5.1. Web-enabled access and operation,
  - 2.4.2.5.2. Secure user login and access,
  - 2.4.2.5.3. Automatic presentation of images and data captured by the Camera System onto review PCs,
  - 2.4.2.5.4. Easy review of violation evidence against local regulations,
  - 2.4.2.5.5. Ability to both "play" full motion video and view multiple scene and plate images,
  - 2.4.2.5.6. Ability to "crop" a license plate image area from the optimal license plate image in the multiple image license plate set to establish vehicle ID, and subsequently print the cropped plate area image to the notice,
  - 2.4.2.5.7. Ability to "accept" or "reject" violation sets and record rejection reasons,
  - 2.4.2.5.8. Ability to generate printed warning letters (during the first 30 days of program operations at the City's discretion),
  - 2.4.2.5.9. Ability to automatically generate printed traffic notices
  - 2.4.2.5.10. Ability to store and archive all processed violation evidence into a secured database for up to three (3) years,
  - 2.4.2.5.11. 24 x 7 ability to access any stored violation image from the system database subject to the City's standard operating procedures regarding the accessing, sharing and utilization of all images on the system data base.
  - 2.4.2.5.12. 24 x 7 ability to request and immediately view Court Evidence Package image sequences displayed as video or as individual high resolution still shots, or send images to printing locally,
  - 2.4.2.5.13. 24 x 7 ability to immediately request, view, and print both standard and user-defined reports.
  - 2.4.2.5.14. Connections must be established to the Tennessee Department of Motor Vehicles and other states to obtain motor vehicle registration information. If the firm is unable to establish such a connection, a plan must be submitted detailing how the registration information will be obtained and generated onto the citation.
  - 2.4.2.5.15. The Vendor will work with the Municipal Court, City Court Clerk's Office, Memphis Police Department, Engineering, and City Attorney to determine the contents of the citations. Warnings will be mailed in lieu of a citation during the first month of operation. Vendor shall describe its understanding of citation issuance under City ordinances as well as state statutes and laws.

- 2.4.2.5.16. Software to process, issue, and track citations and payments will be installed and fully operational.
- 2.4.2.5.17. Vendor must be able to provide secure, internet based website viewing and payment capability to members of the public who receive mailed citations and in support of Police, Court, and Court Clerk operations. Vendor shall be able to demonstrate their ability and experience to meet this requirement.

### **2.4.3. REPORTING AND RECORD KEEPING**

- 2.4.3.1. The Vendor's processing system shall be capable of immediately generating operations reports 24 x 7 including:
  - 2.4.3.1.1. Number of events and violations detected and recorded
  - 2.4.3.1.2. Count of violations where notices not prepared
  - 2.4.3.1.3. Count of violations where notices prepared and mailed
  - 2.4.3.1.4. Audit trail of all voided and discarded images
  - 2.4.3.1.5. The total number of citations authorized and mailed, by month of issuance
  - 2.4.3.1.6. Status of notices issued (paid, outstanding, canceled, reissued and so forth)
  - 2.4.3.1.7. Audit trail of all voided and discarded images
  - 2.4.3.1.8. Monthly financial reports detailing revenues collected by summons number
  - 2.4.3.1.9. Camera equipment hours of service and hours lost
  - 2.4.3.1.10. Number and description of camera or other equipment malfunctions
  - 2.4.3.1.11. Violation and Traffic Statistics
    - 2.4.3.1.11.1. Real time traffic volume counts and speed analyses
    - 2.4.3.1.11.2. Real-time violation graphs and chart by individual lane
    - 2.4.3.1.11.3. Violations by time of day
    - 2.4.3.1.11.4. Violations by day of week
- 2.4.3.2. Vendor must be able to provide complete citation history tracking, available through a secure interface. Citation history should document all actions taken on a citation, from the time it was captured through its lifespan. Citation history should also include a detailed record of all calls to the City received in processing the citation.
- 2.4.3.3. ASE records of events resulting in no ticket being issued shall have a retention period of 90 days after event and shall be retrievable both in paper copy form and electronically.
- 2.4.3.4. ASE records of events resulting in a ticket being issued shall have a retention period of 3 years after final disposition of the ticket and shall be retrievable both in paper copy form and electronically.
- 2.4.3.5. The City requires the retrieval of archived information within ten (10) business days of a request.

### **2.4.4. PERMITS**

- 2.4.4.1. Prior to installation, the City must approve the design and installation of all system equipment. Installation of equipment should require minimal disruption of roadway surfaces and must conform to all City, state and federal guidelines. Vendor will be responsible for submitting any plans as required by the Division of Public Works and/or Division of Engineering and obtaining all necessary permits and approvals required for installation of the ASE system. The Tennessee Department of Transportation (TDOT) must also be contacted for any ASE installations proposed for a state and/or federal route. Vendor is responsible for all costs associated with upgrades required by the City and/or TDOT and permit fees required by TDOT.
- 2.4.4.2. Vendor will be responsible for providing updated street and/or traffic signal record drawings showing all actual field locations of all equipment.

2.4.4.3. Vendor will be responsible for securing all applicable City permits. No construction activities will be permitted between the hours of 7:00 am – 9:00 am and 4:00 pm - 6:00 pm. Night time construction, when traffic and pedestrian volumes are the lowest, may be required at some/all locations. Off-duty uniformed police may be required during construction for traffic control.

2.4.4.4. Vendor will be required to mark its facilities for Tennessee One Call inquiries

#### **2.4.5. SUBSTITUTIONS**

2.4.5.1. It is recognized that there are variations in equipment between manufacturers and that some manufacturers may not be able to meet all specifications in manner specified. Others may provide extra features within standard unit. Where functional performance, features or quality of the proposed system varies from that specified, submit request for substitution identifying substitution being proposed. This submittal must be accompanied by catalog sheets, brochures, and technical specifications of the proposed system.

#### **2.4.6. PUBLIC RELATIONS AND INFORMATION**

2.4.6.1. Once the ASE system is installed and operational, the Vendor will respond to public information requests, as directed by the City, about the program, citations, and enforcement, or any related citizen request within ten (10) business days of the request being submitted.

2.4.6.2. The vendor shall provide and coordinate media relations with the City. The scope of these services shall include but is not limited to the following:

2.4.6.2.1. Signage posted at each location in accordance with City and State laws where camera systems operate, as well as at key roadways entering the City limits, with installation, maintenance, and costs to be assumed by the vendor.

2.4.6.2.2. Signage installation at locations identified by the City and will meet the design criteria of the City.

2.4.6.2.3. Assistance with the content and design of public

2.4.6.2.4. Education program materials related to the system operation.

2.4.6.3. The Vendor shall provide information to the City, as requested, for use in public relations which shall be consistent throughout the contract period.

#### **2.4.7. SYSTEM MAINTENANCE**

2.4.7.1.1. Vendor must provide maintenance on the Photo Enforcement System and related equipment, including but not limited to, the camera, video, sensors, computer and vehicles during the duration of the contract. Vendor will provide all electrical/digital connections and power at no cost to the City. The vendor will warrant and maintain all equipment throughout the duration of the contract.

2.4.7.1.2. The Vendor shall be able to provide technical assistance to the City as needed. Vendor shall repair a non-functional camera system within 72 business hours of being notified of a malfunction. Vendor shall repair the software system within one (1) business day from the time of the malfunction and/or outage. Vendor shall respond to all faults within 24 hours. In the event that a fault renders, ASE equipment inoperative a replacement shall be available within ten (10) business days from the date the fault was first reported. Any down time in enforcement due to repairs, maintenance and/or accidents will result in a reduction in the monthly payment to the Vendor. The amount shall be prorated to the average number of citations issued per day during the highest citation volume month of the current year.

2.4.7.1.3. The operation of all cameras and equipment will be reviewed at least weekly, either electronically or manually. A routine schedule of preventive maintenance and cleaning will be performed by the Vendor, as required.

2.4.7.1.4. The Vendor will keep maintenance logs as required by the City. Upgrades to initial equipment will be reviewed by the City every two (2) years to determine if upgrades to the hardware and/or software are required.

#### **2.4.8. TRAINING**

2.4.8.1. The Vendor shall provide ongoing training support for their product subject to mutual agreement. The Vendor must provide technical instruction on equipment use and operation. Such training must be an appropriate blend of classroom instruction and hands-on practical training with the equipment to be used. Course content must include the theory of device; the technical knowledge required for court purposes; imagery principles; and actual deployment techniques.

2.4.8.2. Vendor must supply all technical training materials and handouts in sufficient quantities to cover the training of identified persons, not to exceed 25. Vendor will provide the training at a City facility.

#### **2.4.9. COLLECTIONS**

The vendor will collect payments from citizens on civil citations.

2.4.9.1. Payment options should include check, money order, or credit card, in person, via telephone and over the internet.

2.4.9.2. The vendor will directly deposit all revenue into an account specific to the City. Fine collection procedures will be developed in accordance with the City's financial accountability and customer service guidelines.

2.4.9.3. Records will be kept in accordance with generally accepted accounting practices. If necessary, the vendor may be required to bring civil suit for unpaid citations and provide a technical expert to testify in court regarding the operation of the cameras and the program in general.

2.4.9.4. Vendor will prepare one notice letter for all chargeable violations and will mail notice letters to vehicle owners. A second notice will be issued for any violations that remain unpaid.

2.4.9.5. Violations for which registered owner data is available shall be issued with seven (7) business days of the violation event date.

2.4.9.6. After expiration of the second notice due date, Vendor shall pursue collections on unpaid notices. Vendor shall explain collections approach in the proposal.

2.4.9.7. Vendor and any associated collection agency will fully comply with the Fair Debt Collection Practices Act, 15 U.S.C. 1692, et seq., and any other applicable state or federal law.

2.4.9.8. City Court Clerk employees should be able to access the vendor's software for purposes of accepting cash payments.

## **2.5 ADDITIONAL FUNCTIONAL REQUIREMENTS FOR MOBILE SPEED ENFORCEMENT DEVICES**

2.5.1. Vendor shall supply ten (10) mobile ASE units. The mobile ASE units may be either trailer mounted or contained in a vehicle. Vehicles containing ASE shall be a 2015 model climate-controlled SUV or van that can comfortably seat a driver and a minimum of one (1) passenger. If the Vendor can supply both a trailer-mounted and vehicle-mounted mobile SEA, include a unit price for both options. Price for mobile units shall include all applicable taxes, insurance and license. Price shall also include portable signs necessary to provide ASE zone notification during enforcement operations in compliance with Tennessee Code Annotated.

2.5.2. The ASE units must be able to operate in enforcement/data collection mode for a minimum of eight (8) continuous hours.

2.5.3. If vehicles are provided, they shall have electrical systems capable of supporting all radios and electronic devices, including power demand and compatibility, when deployed in a field setting.

When not deployed, on-board photo radar systems should be capable of being recharged by physical hook-up to a power outlet outside the vehicle.

- 2.5.4.** The vehicles should be capable of supporting police-provided emergency package equipment, including grill strobes, police radios, sirens, mobile data computer and in-car video cameras.
- 2.5.5.** The vehicles must contain all electronic data collection equipment in a way that is simple and safe to operate.
- 2.5.6.** All data collection and monitoring equipment must be contained in or on the vehicles. No cables can be connected from the vehicles to external devices placed along the roadway when deployed in a field setting.
- 2.5.7.** The vehicle windows behind the driver's door must be tinted to minimize visibility of operator by passing vehicles but must not affect the performance of the data collection equipment.
- 2.5.8.** The vehicle or trailer electronic equipment and stored data must be secure when left unattended.
- 2.5.9.** The Vendor must supply proven radar technology that meets International Association of Chiefs of Police (IACP) standards for speed measurement. The radar technology must come with a maintenance record to assure equipment is calibrated and properly functioning. In detail, describe the system proposed for the vehicle or trailer, including items such as direction and range of speed detection, multilane capability, display panel and ease of set up and operation.  
Vendor shall submit examples of photos under the following conditions: 1 daytime – fair conditions, 2 daytime – rain and snow, 3 night time – fair conditions, 4 night time – rain and snow. In detail, describe the capability of the camera(s) proposed for the vehicle or trailer, including items such as media format and resolution, maximum shutter and flash speeds, and ease of set up and operation.
- 2.5.10.** Digital data captured with the violation event must be recorded simultaneously with exposure of the violation photographic and video images. Systems that print the data after the violation has occurred are not acceptable. In detail, describe the data recorded during the violation.
- 2.5.11.** Vendor mobile ASE systems must be capable of capturing violations in multiple lanes of the approach without having to take the vehicle or trailer temporarily out of service or repositioning equipment.
- 2.5.12.** Vendor's 's electronic equipment must provide the operator with a visual real time display while simultaneously allowing the operator to monitor approaching traffic..

## 2.6 ADDITIONAL FUNCTIONAL REQUIREMENTS FOR COMBINATION SPEED/ RED LIGHT ENFORCEMENT DEVICES

### 2.6.

- 2.6.1.** The system shall be capable of identifying vehicles traveling through a signalized intersection during the red interval and recording a series of violation images that track the whole violation event from before the vehicle crosses the stop-bar to the vehicle exiting the intersection. "Scene" images shall be captured to display the red signal in the vehicle's direction of travel. The system shall be capable of detecting and capturing evidence of violations by slow moving vehicles. There will be no minimum threshold speed for effective monitoring and evidence capture.
- 2.6.2.** In addition to monitoring straight through violations, the system shall be capable of detecting and recording evidence of left-turn, right-turn and speed on green violations. The system shall provide recorded event-specific evidence to substantiate multiple, simultaneous and/or concurrent violations occurring during any red interval. (Proposer shall provide three (3) sample violation images to demonstrate this capability).
- 2.6.3.** The system shall provide 24 x 7 "live" intersection monitoring and viewing capabilities. The system must have the ability to record and playback conditions at any time when conditions are warranted.

- 2.6.4. Vendor must detail the image quality specifications and provide real sets of violation and image examples captured in day time, night time, during inclement weather and during times where sunlight is pointing in the direction of the camera.
- 2.6.5. Vendor must explain how the image and violation data is secured and transmitted to the processing center.
- 2.6.6. Vendor must explain how the proposed camera unit produces an image set which contains the following data:
  - 2.6.6.1. Scene of location where violation occurred including the traffic signal, stop bar and vehicle in proper position to prove the violation;
  - 2.6.6.2. All camera system component operations shall be synchronized to a single, standard, independent, external and verifiable time and date source. Explain how each image captured is synchronized to the same time source (i.e. video and stills);
  - 2.6.6.3. Motor vehicle during violation;
  - 2.6.6.4. Display of rear license plate of vehicle;
  - 2.6.6.5. The day, month and year of the violation;
  - 2.6.6.6. The time of the violation in hours, minutes and seconds;
  - 2.6.6.7. The amount of time that has passed since the light turned red
  - 2.6.6.8. The duration of the event in 1/100 of a second
  - 2.6.6.9. Location of violation;
  - 2.6.6.10. Frame sequence number;
  - 2.6.6.11. Imprint all the information along the bottom or top edge of the image – such data shall not obstruct the violation image.
  - 2.6.6.12. Vendor must explain how the proposed system can compensate for the effects of license plate covers and sprays.

### 3. PROPOSAL RESPONSE

This Section 3 describes the contents of Vendor’s Proposal and provides an outline of how the Vendor should organize it. Vendor’s Proposal will not be considered responsive unless it fully complies with the requirements in this Section, as well as, the additional instructions provided in Section 4.6 regarding the required Proposal formats and submission process.

Specifically, Vendor’s Proposal shall include each of the sections referenced in the table below. The requirements for each of these Proposal sections are described in more detail in this Section 3.

**VENDOR'S PROPOSAL WILL BE DISQUALIFIED FROM THIS RFP PROCESS IF THE VENDOR FAILS TO CONFORM TO THE PROPOSAL INSTRUCTIONS IN THIS SECTION 3.**

<b>Sections and Topics</b>
<b>Core Proposal</b>
Section 1 – Cover Letter

Section 2 – Executive Summary
Section 3 – Scope
Section 4 – Solution/Implementation Design
Section 5 – Pricing Model
Section 6 – Vendor’s Alternative Proposals
<b>Appendices</b>
Appendix A - References
Appendix B – Business Ethics
Appendix C – Vendor’s Due Diligence Requirements
Appendix D – Insurance and Indemnification
Appendix E – Equal Business Opportunity (EBO) Program
Appendix F – Annual Report: May be included in separate cover from bound copies, but must be included with response.
Appendix G – Technical Specifications

### 3.1 COVER LETTER

Vendor’s Proposal shall contain a cover letter acknowledging Vendor's understanding of the RFP process and requirements set forth in this RFP, including its commitment to its Proposal. The cover letter should contain the contact information for the Vendor. The cover letter shall be signed by an authorized representative of Vendor's company.

### 3.2 EXECUTIVE SUMMARY

Vendor’s Proposal shall begin with an executive summary providing an overview of Vendor’s solution/implementation, with a focus on any new technologies, innovations, processes, and transformation that Vendor will bring to help the City meet its objectives. The Executive Summary should include a description of the following:

- A description of Vendor’s solution/implementation
- A description of Vendor’s pricing approach; including any software license costs.
- A description of Vendor’s relevant experience to the proposed solution/implementation, including customer’s previous municipal and local government clients with similar population sizes.
- A list of key interactions between Vendor and the other involved parties (e.g., the City, City contractors, etc.), as well as, a description of Vendor’s approach for managing and communicating between and among those parties during the development and deployment of a new Automated Speed Enforcement System.
- A summary of any key differentiators that make Vendor uniquely positioned to provide a new ASE system to the City.

### 3.3 SCOPE

In Section 3 of its Proposal, Vendor shall explicitly confirm its agreement with the full scope of services described in this section. If, however, Vendor believes that it can provide a solution/implementation that better fits the City's requirements/objectives/ constraints by not providing all of the services, Vendor may propose alternatives under the Alternative Proposals section, described below.

### 3.4 SOLUTION/IMPLEMENTATION DESIGN

Section 4 of Vendor's Proposal shall describe Proposer's "Solution/Implementation Design". The Implementation Plan shall outline the Vendor's approach for installing the fixed location ASE systems at 15 locations within 90 days of when the notice to install is issued. The plan should describe the project management methodology and activities needed to complete total project implementation. A typical plan must be presented in chart form and indicate weekly and monthly activities in support of the implementation, including quality control reviews and participation of subcontractors. The plan should provide milestones, anticipated completion dates, and all events requirements.

After the initial 15 systems are in place, the City may elect for the Vendor to install additional systems. The subsequent camera systems must be installed within 60 days of location approval.

Vendor must discuss in the proposal the Vendor's success in implementing automated speed enforcement systems and service programs of similar size within similar time frames.

### 3.5 PRICING MODEL

In Section 5 of Vendor's Proposal, Vendor shall provide a detailed breakdown of costs. For example, what is the cost for equipment, service, training and implementation? What are the annual costs for the first seven years of the program? Detailed cost sheets are included in Exhibit 2: Price Forms

### 3.6 VENDOR'S ALTERNATIVE PROPOSALS

In Section 6 of the Vendor's Proposal, Vendor may (at its option) include an alternative solution/implementation ("Alternative Proposal") for consideration by the City. Alternative proposals shall be accompanied by appropriately adjusted solution/implementation descriptions and pricing models.

For clarity, alternative proposals are intended to be supplements to Vendor's core proposal, and should not be used as a substitute to addressing City's stated requirements.

### 3.7 REFERENCES

Appendix A of the Vendor's Proposal, Vendor shall provide a list of all municipal ASE systems completed in the U.S. with the proposed equipment manufacturer within the past five years and that are still in use. Do not include trials or pilots. List shall include:

1. Name of municipality.
2. Equipment type.
3. Quantity.
4. Date of installation.
5. Number of street segments covered
6. Number of camera systems in each municipality

To demonstrate qualifications to perform Work, each Vendor shall submit three references from three completed projects that are similar in scope and size to this project. Vendor shall include a description of Work completed, including:

1. Owner's name and contact information.
2. Physical address of installation.
3. Product description.
4. Quantity.
5. Scope of work.
6. Date started.
7. Date completed.

Vendor shall provide physical address of local office or facility of designated service provider for the installation and maintenance of the project and state how long at said address, and if not the Vendor, how long under contract with the proposer.

Vendor must list the name, address, and telephone number of all subcontractors and vendors proposed for this project. Include a brief qualifications summary discussing the responsibilities and experience of each firm or individual and the percentage of services to be provided by each firm or individual.

### 3.8 BUSINESS ETHICS

In Appendix B, Vendor must provide a list of all automated red light enforcement camera systems and speed enforcement contracts that it has been awarded in the last five (5) years.

Vendor must provide an explanation for any contract that was terminated or for which service was no longer provided during the period prior to the end date of the contract.

Vendor must disclose any and all civil lawsuits filed against Vendor, its officers, directors, associates, partners, limited subcontractors, consultants, affiliates, agents or employees in any jurisdiction in the United States arising out of or in connection with automated red light camera enforcement or speed enforcement within the last five (5) years.

Vendor must provide a comprehensive list of any of its officers, directors, associates, partners, limited partners, individual owners, consultants, affiliates, agents or employees who have been officially notified of, charged with, indicted or convicted of any federal or state law in the United States arising out of or in connection with automated red light enforcement or speed enforcement within the last five (5) years.

Vendor must certify that all information provided to the City is true and correct and can be relied upon in awarding the contract contemplated hereunder. Any false or misleading information shall be grounds for the City to disqualify the Vendor's response to this proposal from consideration

### 3.9 VENDOR'S DUE DILIGENCE REQUIREMENTS

Appendix C of the Proposal shall contain a detailed list of any additional due diligence – such as review of specific information and interviews of particular City personnel – that Vendor would

need to perform following down-selection, if Vendor were chosen as a down-selected provider, in order to develop and submit a detailed and unqualified best and final offer.

### 3.10 INSURANCE AND RISK OF LOSS

Appendix D of the Proposal shall contain a statement of compliance to all listed insurance in the reply to this RFP or note any exceptions.

THE VENDOR SHALL NOT COMMENCE ANY WORK UNDER THIS CONTRACT UNTIL IT HAS OBTAINED AND CAUSED ITS SUBCONTRACTORS TO PROCURE AND KEEP IN FORCE ALL INSURANCE REQUIRED. THE VENDOR SHALL REQUIRE ALL SUBCONTRACTORS TO CARRY INSURANCE AS OUTLINED BELOW, IN CASE THEY ARE NOT PROTECTED BY THE POLICIES CARRIED BY THE VENDOR. THE VENDOR IS REQUIRED TO PROVIDE COPIES OF THE INSURANCE POLICIES UPON REQUEST. THE VENDOR SHALL FURNISH THE RISK MANAGER A CERTIFICATE OF INSURANCE AND/OR POLICIES ATTESTED BY A DULY AUTHORIZED REPRESENTATIVE OF THE INSURANCE CARRIER EVIDENCING THAT THE INSURANCE REQUIRED HEREUNDER IS IN EFFECT. ALL INSURANCE COMPANIES MUST BE ACCEPTABLE TO THE CITY OF MEMPHIS AND LICENSED IN THE STATE OF TENNESSEE.

If any of the Insurance Requirements are non-renewed at the expiration dates, payment to the Vendor may be withheld until those requirements have been met, or at the option of the City. The City may pay the renewal premiums and withhold such payments from any monies due the Vendor.

The Vendor shall indemnify, defend, save and hold harmless the City, its officers, employees, and agents, from and against any and all claims, demands, suits, actions, penalties, damages, settlements, costs, expenses, or other liabilities of any kind and character arising out of or in connection with the breach of this Agreement by Vendor, its employees, subcontractors, or agents, or any negligent act or omission of Vendor, its employees, subcontractors, or agents, which occurs pursuant to the performance of this Agreement, and this indemnification shall survive the expiration or earlier termination of this Agreement. The provisions of this paragraph shall not apply to any loss or damage caused solely by the acts, errors, or omissions of the City, its officers, employees and agents. Contracts for third party service providers should include indemnity provisions that protect the City from any liability arising out of the Vendor's loss of City's sensitive information.

Each certificate or policy shall require and state in writing the following clauses:

**Vendor shall provide notice to the City within three (3) business days following receipt of any notice of cancellation or material change in Company's insurance policy from Company's insurer. Such notice shall be provided to City by registered mail, to the following addresses:**

City of Memphis  
Attn: Risk Management  
2714 Union Extended, Suite 200  
Memphis, TN 38112

City of Memphis  
Attn: Purchasing Agent  
125 North Main, Room 354  
Memphis, TN 38103

The Certificate of Insurance shall state the following: "The City of Memphis, its officials, agents, employees and representatives shall be named as additional insured on all liability policies." The additional insured endorsements shall be attached to the Certificate of Insurance and the Certificate of Insurance shall also state: "The additional insured endorsement is attached to the Certificate of Insurance."

**WORKERS COMPENSATION:**

The Vendor shall maintain in force Workers’ Compensation coverage in accordance with the Statutory Requirements and Minimum Limits of the State of Tennessee and shall require all subcontractors to do likewise.

Employer’s Liability      \$100,000 Each Accident  
   \$500,000 Disease-Policy Limit  
   \$100,000 Disease-Each Employee

**AUTOMOBILE LIABILITY:**

Covering owned, non-owned, and hired vehicles with MINIMUM LIMITS of:

\$1,000,000      Each Occurrence – Combined Single Limits

**COMMERCIAL GENERAL LIABILITY:**

Comprehensive General Liability Insurance, including Premises and Operations, Contractual Liability, Independent Contractor’s Liability, and Broad Form Property Damage Liability Coverage with MINIMUM LIMITS of:

\$2,000,000              General Aggregate (Per Project / Per Location)  
\$2,000,000              Products-Completed Operations  
\$2,000,000              Personal and Advertising Injury  
\$2,000,000              Each Occurrence (Bodily Injury & Property Damage)  
\$ 50,000                  Fire Damage any One Fire  
\$ 5,000                    Medical Expense any One Person

**ERRORS AND OMISSIONS LIABILITY:**

The Vendor shall maintain such coverage for at least three (3) years from the termination or expiration of this agreement with MINIMUM LIMITS of:

\$ 1,000,000      Each Professional Incident/ Each Claim  
\$5,000,000      Aggregate

**PROPERTY INSURANCE:**

The Vendor shall be responsible for maintaining any and all property insurance on their own equipment and shall require all subcontractors to do likewise. The Vendor shall require all sub-contractors to carry insurance as outlined above, in case they are not protected by the policies carried by the Vendor.

The Vendor is required to provide copies of the insurance policies upon request.

**3.11 EQUAL BUSINESS OPPORTUNITY (EBO) PROGRAM**

Appendix E of the Proposal shall provide a complete participation plan or well documented good faith efforts. See the following pages for descriptions and forms.

## **Equal Business Opportunity Program**

This contract will be subject to the requirements of the City of Memphis Ordinance #5384 which establishes the Equal Business Opportunity (“EBO”) Program. It is up to the Respondent to ensure that all requirements of this ordinance are met. The Ordinance may be accessed on the City’s website at [www.memphistn.gov](http://www.memphistn.gov) under “Doing Business”. The intent of the EBO Program is to increase the participation of locally owned minority and women owned business enterprises (“M/WBE”) in the City’s purchasing activities. Toward achieving this objective, the M/WBE participation goal for this solicitation is **0%**. However, M/WBE participation in this project is strongly encouraged and will be a factor in the proposal evaluation process. The percentage of M/WBE participation is defined as the dollar value of subcontracts awarded to certified minority and/or women business enterprises divided by the total proposed base bid amount. The participation for this project will be presented by each Vendor as part of their proposal. See Section 5.2 for more information.

### **Participation Plan**

The Participation Plan must include: (1) level and dollar amount of participation your firm anticipates to achieve in the performance of contract resulting from this RFP; (2) the type of work to be performed by the M/WBE participation; and (3) the names of the M/WBEs the Respondent plans to utilize in the performance of the contract resulting from this RFP.

### **Good Faith Efforts Documentation**

If a Vendor proposes an M/WBE percentage less than the established goal, the Vendor must, at the time of the response, submit a Good Faith Efforts statement accompanied by the appropriate documentation justifying its submitted M/WBE percentage. The ability of the Vendor to perform the work with its own work force will not in itself excuse the Vendor from making good faith efforts to meet participation goals. The determination of whether a Vendor has made a good faith effort will be made by the City’s Contract Compliance Officer, Director of Finance and the Purchasing Agent, prior to the award of the project.

### **Eligible M/WBE Firms**

To qualify as an M/WBE firm, per the requirements of City of Memphis Ordinance #5384, a firm must be included on the City’s list of certified M/WBE firms. One or a combination of several M/WBEs may be utilized to meet the established goal of **0%**. The Evaluation and presentation of the M/WBE participation is discussed in Section 5.2

Requests for verification must be submitted to the City's Contract Compliance Office listed below:

Mary L. Bright  
City of Memphis  
Contract Compliance Officer  
Mary.Bright@memphistn.gov  
125 North Main Street, Suite 546  
Memphis, TN 38103  
Phone: (901) 576-6210  
Fax: (901) 576-6560



**CITY OF MEMPHIS**

**EQUAL BUSINESS OPPORTUNITY PROGRAM COMPLIANCE FORM**

**PROJECT TITLE: Automated Speed Enforcement System**

**Project M/WBE GOAL: 0%**

The following sections must be completed by bidder. A certified subcontractor or supplier is defined as a firm from the list of certified firms provided with this specification.

\_\_\_\_\_  
Bidder's Name

Section A - If the bidder is a certified firm, so indicate here with a check mark.

\_\_\_\_\_ MBE \_\_\_\_\_ WBE

Section B - Identify below those certified firms that will be employed as subcontractors or suppliers on this project. By submitting this bid, the bidder commits to the use of the firms listed below.

\$ = Show the dollar value of the subcontract to be awarded to this firm

% = Show the percentage this subcontract is of your base bid

M/WBE = Show by inserting an M or W whether the subcontractor is an MBE or WBE

<b>\$ / %</b>	<b>M/WBE</b>	<b>SERVICE</b>	<b>CERTIFIED SUBCONTR. NAME, ADDRESS, TEL. #</b>

<b>Total</b>	<b>\$</b>	<b>%</b>
<b>MBE</b>		
<b>WBE</b>		

*Evaluation of M/WBE participation is explained in Section 5.2.*

**THIS FORM and SUPPORTING DOCUMENTATION MUST BE SUBMITTED WITH THE BID OR THE BID WILL BE CONSIDERED NON-CONFORMING.**

**CITY OF MEMPHIS  
GOOD FAITH EFFORT DOCUMENTATION FORM**

To The Honorable Mayor City of Memphis, Tennessee

From:

VENDOR NAME \_\_\_\_\_

PROJECT TITLE: **Parking Meter Replacement and Upgrade**

Enclosed please find the required documents:

Said Vendor \_\_\_\_did / or \_\_\_\_ did not attend the project pre-bid meeting.

**\*Copies of all written notification to City of Memphis M/WBE listed firms. (Please attach list of all firms notified, detail how they were notified and when).**

Said Vendor \_\_\_\_\_did / or \_\_\_\_ did not select economically feasible portions of the work to be performed by M/WBE firms.

**\*List all M/WBE firms with which negotiations took place. (Attach list. If no negotiations were held, please state so.) Provide names, addresses, and dates of negotiations.**

**\*Statement of efforts to assist M/WBE firms, with bonding, insurance, financing, or with document review. (Attach list. If no assistance was provided, please state so.)**

The Vendor \_\_\_\_ did / or \_\_\_\_ did not use all M/WBE quotations received. If the Vendor did not use all M/WBE quotations received, list on attached sheets, as required as to the reasons those quotes were not used.

**\*List (on attached sheets as required) all M/WBE firms contacted that the bidder considered not to be qualified, and a statement of the reasons for the bidder's conclusions. If no firms were found to be non-qualified, please state so.**

THIS SIGNED FORM AND REQUESTED DOCUMENTATION (noted by an asterisk ‘\*’) MUST BE SUBMITTED WITH THE BID IF THE VENDOR DOES NOT MEET THE REQUIRED M/WBE PROJECT GOAL. IF REQUESTED DOCUMENTATION IS NOT SUBMITTED THE BID WILL BE CONSIDERED NON-CONFORMING.

\_\_\_\_\_  
Vendor's Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed or Typed Name and Title

### 3.12 ANNUAL REPORT

The Vendor shall submit their most recent annual report or current audited financial statements. The financial stability of the Vendor and the Vendor's length of time in business will be closely evaluated. Financial information may be included in separate cover from bound copies, but must be included with response.

### 3.13 TECHNICAL SPECIFICATIONS

Vendor shall provide the technical specifications of the products proposed for this RFP.

## 4. INSTRUCTIONS ON RFP PROCESS

### 4.1 USE OF INFORMATION

Vendor may not make any public announcement relating to this RFP or otherwise publicize the existence or contents of this RFP. Any Vendor that discusses this RFP or the Initiative with anyone within or outside the City other than the persons and entities permitted pursuant to this RFP will risk elimination from further participation in the bidding process due to breach of confidentiality, in addition to enforcement by the City of any other remedies available to it.

All correspondence about this RFP and the Initiative should be limited to the Principal Contact described in Section 4.2 or other designated City personnel or agents.

### 4.2 PRINCIPAL CONTACT AND INFORMATION REQUESTS

The City of Memphis Purchasing Agent is the single point of contact (the "Principal Contact") for all matters relating to this RFP. Vendor should direct all inquiries to the Principal Contact at:

**Purchasing Agent**  
**Attn: Eric Mayse**  
**125 North Main Street, Room354**  
**Memphis, Tennessee 38103**  
**Eric.mayse@memphistn.gov**

Vendor should not, under any circumstances, contact any City personnel (including senior City management or City employees with whom Vendor has an existing business or personal relationship) to discuss this RFP without the Principal Contact's prior written consent. Utmost discretion is expected of Vendor and all other RFP recipients. Any recipient attempting to circumvent this process will risk elimination from further participation in the bidding process.

### 4.3 SCHEDULE OF ACTIVITIES

The City will move as quickly and efficiently as possible to determine the feasibility of all Vendors Proposals and to move forward with term sheet discussions and ultimately conclude an agreement accordingly. As a result, the City requests that Vendor make a dedicated team available to participate in the proposal development and evaluation processes as necessary to participate in the activities and meet the deadlines provided in the table below.

It is the City’s option to conduct interviews with finalists. However, in no way is the City obligated to interview finalists.

The City reserves the right to modify or update this schedule at any point in time.

**In no event shall the deadline for submission of the proposal be changed except by written modification by the City of Memphis Purchasing Department.**

Activity	Date
Publish RFP	April 28, 2015
Pre-submittal meeting	May 7, 2015
Proposer Questions Deadline	May 12, 2015
City Response to Questions	May 15, 2015
Proposal Submission Deadline	May 22, 2015, 2:00 PM CDT
Finalist Selections – Optional	May 29, 2015
Finalist Presentations – Optional (City’s Discretion)	Week of June 1, 2015
Negotiations	Week of June 8, 2015
Agreement Finalization	June 12, 2015

Several of the activities identified in the above table are described in more detail in the remainder of this Section 4.

#### 4.4 PRE-SUBMITTAL CONFERENCE

A pre-submittal conference is scheduled for this RFP at **1:30 PM CDT on May 7, 2015**, at **Memphis City Hall, 125 North Main Street, 4<sup>th</sup> Floor, Conference Room A, Memphis, TN 38103**. Although attendance is not mandatory, all interested Vendors are encouraged to attend. Vendors wishing to attend should communicate their intentions, via e-mail, by May 5, 2015, to the individual listed in Section 4.2. Communication shall include the subject heading “(your company’s name) – pre-submittal conference”. In addition to the sender’s e-mail address, the e-mail should include the number of attendees. Attendees may also e-mail advance questions to the City, which may be addressed during the meeting.

For additional information, please contact **Eric Mayse** at [eric.mayse@memphistn.gov](mailto:eric.mayse@memphistn.gov)

#### 4.5 WRITTEN QUESTIONS SUBMISSION

Vendor may submit written questions based on its review of this RFP, by completing the template provided at **Exhibit 1 (Vendor Questions Template)** and sending it via email by **May 12, 2015, by 5:00 pm CDT**. Questions received after 5:00 will not be answered. This email should be sent to the individual(s) described in Section 4.2, with the subject heading: “[Your company’s name] –City of Memphis ASE System RFP Questions.” The City will post the responses to the questions on the City’s web site **May 15, 2015 by 5:00 pm CDT**. To ensure the fair and consistent distribution of information, no individual answers will be given. The only official answer or position of the City will be the one posted via the City’s website.

#### 4.6 PROPOSAL SUBMISSIONS

##### **PROPOSAL SUBMISSION AND DUE DATE**

Proposer shall submit (A) one (1) original and seven(7) complete printed copies of its Proposal (including the signed Cover Letters); and (B) 2 CDs or DVDs containing softcopies of its entire Proposal (including PDFs of the Signed Cover Letters) on or before **May 22, 2015 at 2:00 pm CDT**, to the addressee provided below:

**City of Memphis Purchasing Department  
125 N. Main Street, Room 354  
Memphis, TN 38103**

The label should identify the contents as: **City of Memphis Automated Speed Enforcement System RFP #27324**

**PROPOSALS SUBMITTED AFTER THE DEADLINE OR WHICH STATE THAT INFORMATION WILL BE PROVIDED ‘AT A LATER DATE’, OR WHICH ARE OTHERWISE INCOMPLETE OR FAIL TO COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS RFP WILL BE DISQUALIFIED FROM PARTICIPATION IN THIS RFP PROCESS.**

Proposals may not be amended after the submission deadline.

Notwithstanding any legends on the proposal or any other statements to the contrary, all materials submitted in connection with Vendor’s response to this RFP will become the property of the City and may be returned only at the City’s option.

##### **4.6.1. PROPOSAL FORMAT**

The City expects the Proposal to be a compilation of various documents, in particular because Vendor’s Proposal must utilize the RFP response templates set forth in the Exhibits in this RFP. The Proposal should be structured with two sections so that there is a primary, “core” document (organized in accordance with Section 3) that incorporates by reference, as applicable, and an Appendix containing the other documents.

All pages should be printed on 8 ½" x 11" paper, unless another format is provided by the response template. Vendor responses should be specific, factual, brief and to the point, and should avoid pure sales and marketing content to the extent possible.

**The core document shall be limited to 50 pages, single sided. No information identifying the company shall be included in the core document except a cover letter which contains the company name and contact information.**

The Appendix shall contain all technical specifications for the equipment. The proposal shall list all subcontractors that will work on this project.

#### **4.6.2. PROPOSAL EXPIRATION DATE**

Proposals in response to this RFP shall remain valid for nine (9) months from the Proposal due date. The City may request an extension of time if needed.

#### **4.6.3. VENDOR DATA**

The confidentiality of information and data contained in Vendor's Proposal shall be subject to and governed by the Open Records Act and any other Public Records laws with which the City is legally obligated to comply (including a Freedom of Information Act Request under "FOIA").

#### **4.6.4. Deadline Extension**

The City reserves the right to extend the submission deadline, if such action is considered necessary by the City.

#### **4.6.5. Ambiguity, Conflict, or other Errors in the RFP**

If a Vendor discovers any ambiguity, conflict, discrepancy, omission or other error in the RFP, it shall immediately notify, in writing e-mail, the City of such error request modification or clarification of the document. The Vendor shall include the RFP number, page number and the applicable paragraph title. The City will issue/post any revisions to the RFP on the City's website ([www.memphistn.gov](http://www.memphistn.gov)). The Vendor is responsible for clarifying any ambiguity, conflict, discrepancy, omission, or other error in the Request for Proposals prior to submitting the proposal or any ambiguity, conflict, discrepancy, etc. shall be waived.

#### **4.6.6. Failed Competition**

The City reserves the right to reject any or all proposals which are not responsive to the specifications of this Request for Proposal (RFP). Competitive negotiation requires that at least two responsive proposals for the same scope of work and service area be received in response to the RFP. A competition is considered failed if only one responsive proposal is received. If a competition has been declared failed, the City then has the option to reopen the procurement or enter into a non-competitive procurement.

#### **4.6.7. Withdrawing or Amending a Proposal**

At any time prior to the scheduled deadline for receipt of proposals, the Vendor may withdraw or amend its proposal by submitting a written request from the authorized representative whose name and signature appears on the proposal. A written request to withdraw or amend the proposal must be submitted to the individual and address to whom/which the proposal was submitted in accordance with the section above titled "PROPOSAL SUBMISSION AND DUE DATE."

#### **4.6.8. Acceptance/Rejection of Proposals**

The City reserves the right to accept or reject, in whole or in part, any or all proposals submitted. The City shall reject the proposal of any Vendor that is determined to be non-responsive.

#### **4.6.9. Informalities/Minor Irregularities**

The City reserves the right to waive minor irregularities or informalities in a Vendor's proposal when the City determines that it will be in City's best interest to do so. Any such waiver shall not modify any remaining RFP specifications or excuse the Vendor from full compliance with the RFP specifications and other contract requirements if the Vendor is awarded the contract.

#### **4.6.10. Vendor indebted to the City**

No contract will be knowingly awarded to any organization which, in the City's sole discretion, is in arrears to the City of Memphis upon any debt or contract, or which is a defaulter as surety or otherwise under any obligations to the City of Memphis, or which has failed to perform faithfully on any previous contract with the City of Memphis.

#### **4.6.11. Tax Payments**

The City of Memphis exempt from federal excise, state and local taxes on all purchases and will issue tax exemption certificates, upon request.

#### **4.6.12. GENERAL**

Subject to questions and clarifications raised on specific issues in accordance with Section 4.4, Vendor shall be deemed, by the submission of its Proposal, to have understood fully the meaning of the overall RFP. Any claims of ambiguity after contract award will not be accepted by the City.

### **4.7 FINALIST SELECTIONS (OPTIONAL)**

The City may or may not select a number of the RFP respondents who will be asked to give an oral presentation of its proposal to the City. However the City is not obligated to interview any finalist. If interviews are conducted, these Vendors will be selected based on an evaluation of their Proposals against the criteria described in Section 5 of this RFP. RFP recipients that are not selected to progress to the oral presentations likely will be excluded from further consideration.

For this reason, Vendor is strongly encouraged to make as complete and compelling a Proposal as possible. The RFP recipient who fails to comply risks being dropped from further consideration without having an opportunity to improve its offer.

#### 4.8 RECIPIENT PRESENTATIONS (OPTIONAL)

Details pertaining to the oral presentation phase of the RFP process will be confirmed after Proposal submission, however the presentations are tentatively scheduled to begin the week of June 1, 2015.

If Vendor is one of the RFP recipients asked to give an oral presentation, Vendor should prepare a comprehensive presentation that concentrates on the business and technical aspects of the Proposal, and should not be marketing discussions. **VENDOR'S PROPOSAL WILL NOT BE ALTERED OR ENHANCED DURING THE ORAL PRESENTATION.**

Appropriate visual and written materials are expected, but the format will be left to the discretion of the Vendor. A soft copy of all presentation materials must be delivered to the Principal Contact at least one business day before the beginning of the presentation. Vendor should also bring a sufficient number of printed copies of the materials for the City attendees at the presentation.

The City may provide a last minute agenda or other direction for the Vendor's presentation based on the City's initial review of the Proposals.

#### 4.9 CONTRACT AWARD

The award of contract will be made on the basis of the best proposal, as determined by the City, which meets the requirements and criteria set forth in the solicitation. The City may fund all or any part of a proposal, and the City will only accept proposals for the services requested. The proposal submitted in response to this solicitation is not a legally binding document; however, the contract, which will be based on information provided in the proposal, becomes legally binding once all parties have signed it. Any contract resulting from this RFP shall be subject to the City of Memphis General Terms and Conditions set forth in this solicitation. The successful Contractor shall be required to execute the contract originated by the City of Memphis and satisfy all contract requirements as specified by the City. One or more contracts may be awarded under this RFP, and any contract awards and amounts are subject to the availability and appropriation of funds. Unless changed by the City, the anticipated contract will commence upon contract execution and end seven years after the contract execution. The City reserves the option to extend the contract term for one additional five year period.

#### 4.10 PROTESTS

Any protest of award must be filed in writing with the Purchasing Agent within five (5) calendar days of the award announcement at the following address:

City of Memphis Purchasing Agent:

125 North Main, Room 354, Memphis, Tennessee 38103.

#### 4.11 MODIFICATION OR TERMINATION OF RFP PROCESS

Subject to the rules and regulations of the City's Procurement Office, including with respect to providing notification and, where applicable, providing the opportunity to revise proposals, the City reserves the right to, in its sole discretion, discontinue, amend, supplement, or otherwise change this RFP, the Initiative, the process used for evaluation, and the expected timeline at any time and for any reason, and makes no commitments, implied or otherwise, that this process will result in a business transaction with any Vendor.

#### 4.12 SUPPLEMENTAL INFORMATION

If, subsequent to issuance of this RFP, additional relevant material is produced by or becomes available to the City, such material will (where appropriate) be transmitted to all RFP participants for their consideration. The City will make modifications by issuing a written addendum, which will be posted on the City's website. Any revisions to the solicitation will be made only by an addendum issued by the City. It is the responsibility of the Vendor to check the website for possible addenda and should consider such information in its Proposal. The City will assume that all changes or additional requirements transmitted have been taken into account in Vendor's Proposal (including with respect to pricing), unless otherwise specified.

#### 4.13 NO REPRESENTATIONS OR WARRANTIES

The City makes no representations or warranties regarding the accuracy or completeness of the information contained in this RFP or otherwise provided by the City through the RFP process. Vendor is responsible for making its own evaluation of information and data contained in this RFP or otherwise provided by the City, and for preparing and submitting responses to the RFP. The City has attempted to validate the information provided in this RFP, but it is possible that Vendor may detect inconsistencies or potential errors. While Vendor should identify these potential issues in its questions or in an appendix to its Proposal, Vendor should use the information provided on an "as-is" basis for its initial Proposal. Information regarding the City and the Initiative may be revised or updated, and republished for inclusion in a final response.

#### 4.14 PROPOSAL PREPARATION COSTS

Vendor will be responsible for all costs it incurs in connection with this RFP process (including but not limited to Proposal preparation, personnel time, travel-related costs, and other expenses) and any subsequent agreement negotiations.

#### 4.15 OWNERSHIP AND INTELLECTUAL PROPERTY

The City will own all of the data contained within the ASE System.

## 5. EVALUATION MODEL

### 5.1 QUALIFYING PROPOSALS

City will review each submitted Proposal to determine whether it is a Qualifying Proposal. A Qualifying Proposal is one that meets all of the criteria set forth below. All Proposals that ARE NOT a Qualifying Proposal will be disqualified from this RFP process. A Qualifying Proposal is a Proposal that:

- Was submitted (in the form and format required) by the due date as specified in Section 4.6.
- Conforms to the requirements of the RFP (e.g. includes the requisite number of copies, customer references, etc.).

### 5.2 EVALUATION OF QUALIFYING PROPOSALS

City will evaluate each Qualifying Proposal based on the degree to which it complies with City's requirements, as articulated in this RFP. The primary categories to be evaluated are:

- Scope and Solution/Implementation: whether Vendor accepted the scope of services presented in this RFP, meets the solution/implementation requirements and constraints, proposes an appropriate development plan, mitigates risks, and delivers value added components.
- Business Ethics: whether the Vendor meets the business ethics criteria.
- Equipment: whether the equipment meets the technical specifications.
- Pricing: whether Vendor provides a cost effective pricing methodology.
- EBO: Even though the use of EBO firms is not required, the use of EBO firms in this project is strongly encouraged and will be evaluated based on the highest level of M/WBE participation proposed.
- Location: whether Vendors(s) of the proposed solution/implementation has a local office in the Shelby county area, preferably in the City of Memphis.

Information on how the City will weigh these categories for each down-selection referenced in this Section 5 above is set forth below:

<b>Evaluation Category</b>	<b>Evaluation</b>
<b>Business Ethics</b>	10%
<b>Scope and Solution /Implementation</b>	20%
<b>Equipment (Fixed and Mobile)</b>	20%
<b>Pricing</b>	20%
<b>Location</b>	10%
<b>Equal Business Opportunity</b>	20%
<b>TOTAL</b>	100%

## 6. RFP TERMS AND CONDITIONS

See following pages.

## Terms and Conditions

### RFP TERMS

#### REQUEST FOR PROPOSAL TERMS

The City of Memphis seeks proposals from firms who have the expertise to provide a new on-street parking meter system in accordance with this RFP document. This is a Request for Proposal that may be modified by the City in the selection process.

THE CITY OF MEMPHIS ENCOURAGES THE PARTICIPATION OF SMALL, MINORITY AND WOMEN-OWNED BUSINESSES IN THE PURCHASING PROCESS.

The City of Memphis is an Equal Opportunity Employer and does not discriminate on the basis of race, color, national origin, sex, religion, age or handicap status in employment or in the provision of services.

This procurement may be subject to the requirements of Ordinance No. 5114 which establishes a local preference for local businesses located within the City of Memphis. A copy of your current Memphis and Shelby County Tennessee Business Tax Receipt must accompany the proposal for consideration of this ordinance.

Any protest of award must be filed in writing with the Purchasing Agent within five (5) calendar days of the intent to award announcement at the following address: City of Memphis Purchasing Agent; 125 North Main, Room 354; Memphis, Tennessee 38103. Notice will be posted on the City's website and outside Council Chambers, located on the lobby floor of City Hall. The intent to award notification shall be deemed publicly announced on the date specified on the notice.

Only proposals submitted on the provided form(s) with no changes, additions or deletions to the terms and conditions will be considered. Proposals containing terms and conditions other than those contained herein may be considered nonconforming.

No objections with regard to the application, meaning, or interpretation of the specifications will be considered after the opening of the subject proposals. If there are questions or concerns regarding any part of plans, terms, specifications or other proposed documents, a written request for interpretation thereof may be submitted to the City Purchasing Agent prior to the deadline date. The organization submitting the request shall be responsible for the prompt delivery of the request. Any interpretation in response to the written request will be made only by addendum duly issued, and a copy of such addendum will be mailed or delivered to each organization receiving a set of such documents and/or posted on the City's website. The City of Memphis will not be responsible for any other explanation or interpretation of the proposed documents. By submission of its proposal, a proposer shall be deemed to have understood fully the contents and meaning of the RFP.

All proposals must be signed by an authorized representative of your organization. Unsigned proposals will be considered nonconforming.

Any contract resulting from the proposals received in response to this solicitation shall be construed in accordance with and governed by the laws of the State of Tennessee. All actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Agreement shall be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee without regard to conflicts of laws principles.

By order of the Mayor of the City of Memphis, Tennessee.

**A C WHARTON, JR., MAYOR**

James Stokes, City Purchasing Agent

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#### INSTRUCTIONS TO VENDORS

Vendors shall submit their signed proposal in a sealed envelope INDICATING ON THE OUTSIDE: THE COMPANY

NAME and THE REQUEST FOR PROPOSAL NUMBER. 27324

Vendors must comply with all applicable licensing requirements. Pursuant to the City of Memphis Charter, Article 71, Section 777 et seq., it is unlawful to operate a business within the limits of the city of Memphis without possessing a Memphis and Shelby County business license, excepting non-profit organizations that qualify as tax exempt under Sec. 501(c)(3) of the Internal Revenue Code. Upon award notification and prior to the City issuing a properly executed purchase order or entering into a contract with the Vendor, the successful Vendor, whose principal business address is located within the limits of the city of Memphis, will be required to submit, along with the required insurance and other required documentation, a copy of (1) the tax-exempt ruling or determination letter from the Internal Revenue Services; or (2) its current Memphis and Shelby County Business Tax Receipt/License.

Issuance of this RFP does not obligate the City to contract, in whole or in part, for services specified herein. The City of Memphis reserves the right to cancel this solicitation, in whole or in part, or to reject, in whole or in part, any and all proposals. Cancellation of this RFP or any subsequent award will be posted on the City's website: [www.memphistn.gov](http://www.memphistn.gov) under the section titled "Government News."

Any firm receiving a mailed solicitation on the above subject and not bidding will be electronically removed from the City's mailing list used for the above-referenced subject after 3 consecutive non-responses or no bids.

For additional information concerning this solicitation, please contact: Eric Mayse via via e-mail at [eric.mayse@memphistn.gov](mailto:eric.mayse@memphistn.gov).

This solicitation shall be in accordance with the City of Memphis Ordinances and Purchasing Policies and Procedures, which may be amended from time to time.

All materials submitted pursuant to this RFP shall become the property of the City of Memphis.

To the extent permitted by law, all proposals submitted in response to this RFP shall be kept confidential until the proposals have been evaluated and the intent to award is announced. Until the intent to award is announced, no information regarding any proposal will be released to anyone, except members of the Evaluation Committee who are responsible for evaluating the proposals and other appropriate City staff. All information provided by the Vendor in response to this RFP will be considered by the Evaluation Committee in evaluating the proposal and making an award recommendation to the City.

The Mayor of the City of Memphis is the only individual who can legally sign contracts on behalf of the City. Costs chargeable to the proposed contract shall not be incurred before receipt of a fully executed contract.



## Exhibit 2 – PRICE FORMS

### PRICE FORM

The undersigned VENDOR proposes and agrees, if this Proposal is accepted, to enter into an Agreement with CITY to complete all Work as specified or indicated in Contract Documents for Contract Price and within Contract Time indicated in this Proposal and in accordance with Contract Documents.

In submitting this Proposal, VENDOR represents, as more fully set forth in Agreement, that:

VENDOR has examined copies of all Contract Documents and of the following addenda (receipt of all of which is hereby acknowledged):

Addenda # \_\_\_\_ Date \_\_\_\_\_ Signature \_\_\_\_\_

Addenda # \_\_\_\_ Date \_\_\_\_\_ Signature \_\_\_\_\_

Addenda # \_\_\_\_ Date \_\_\_\_\_ Signature \_\_\_\_\_

VENDOR has examined site and locality where Work is to be performed, legal requirements (federal, state and local laws, ordinances, rules and regulations) and conditions affecting cost, progress or performance of Work and has made such independent investigations as VENDOR deems necessary

This Proposal is genuine and not made in interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; VENDOR has not directly induced or solicited any other Vendor to submit false or sham Proposal; VENDOR has not solicited or induced any person, firm or corporation to refrain from proposing; and VENDOR has not sought by collusion to obtain for itself any advantage over any other Vendor or over CITY; and

CITY reserves right to delete any section of Work.

Communications concerning this Proposal shall be addressed to: VENDOR to provide Vendor's name, address, telephone number and name of individual familiar with this Proposal and able and authorized to answer questions regarding this Proposal.)

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**UNIT COSTS AND ALTERNATES**

Vendor will complete Work for following price(s): includes provision of all material, labor, equipment, and services necessary to furnish and install fully integrated ASE System per the specifications in this RFP. The integrated ASE System shall consist of fixed location and mobile devices as specified in this RFP.

All prices shall remain in effect for a contract period of seven years in the event that the City elects to change or expand the program after initial purchase.

**1. Fixed Location ASE Devices**

a. Unit cost (monthly) for ASE Device:

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_ )  
(in words) (in numbers)

Manufacturer: \_\_\_\_\_ Model \_\_\_\_\_

**2. Mobile ASE Devices**

a. Unit cost (monthly) for Vehicle Mounted ASE Devices:

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_ )  
(in words) (in numbers)

Manufacturer: \_\_\_\_\_ Model \_\_\_\_\_

b. Unit cost (Monthly) for Trailer Mounted ASE Devices:

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_ )  
(in words) (in numbers)

Manufacturer: \_\_\_\_\_ Model \_\_\_\_\_

c. Unit cost (Monthly) for Hand Held ASE Devices:

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_ )  
(in words) (in numbers)

Manufacturer: \_\_\_\_\_ Model \_\_\_\_\_

d. Additional costs or fees required to meet the specifications. Explain in detail:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3. Annual Costs**

a. Fixed Location ASE Devices – Annual Monthly fee to provide devices for a period of 6 years beyond Year 1.

Year 2 \_\_\_\_\_ Dollars (\$) \_\_\_\_\_  
(in words) (in numbers)

Year 3 \_\_\_\_\_ Dollars (\$) \_\_\_\_\_  
(in words) (in numbers)

Year 4 \_\_\_\_\_ Dollars (\$) \_\_\_\_\_  
(in words) (in numbers)

Year 5 \_\_\_\_\_ Dollars (\$) \_\_\_\_\_  
(in words) (in numbers)

Year 6 \_\_\_\_\_ Dollars (\$) \_\_\_\_\_  
(in words) (in numbers)

Year 7 \_\_\_\_\_ Dollars (\$) \_\_\_\_\_  
(in words) (in numbers)

b. Mobile ASE Devices – Annual Monthly fee to provide devices for a period of 6 years beyond Year 1..

Year 2 \_\_\_\_\_ Dollars (\$) \_\_\_\_\_  
(in words) (in numbers)

Year 3 \_\_\_\_\_ Dollars (\$) \_\_\_\_\_  
(in words) (in numbers)

Year 4 \_\_\_\_\_ Dollars (\$) \_\_\_\_\_  
(in words) (in numbers)

Year 5 \_\_\_\_\_ Dollars (\$) \_\_\_\_\_  
(in words) (in numbers)

Year 6 \_\_\_\_\_ Dollars (\$) \_\_\_\_\_  
(in words) (in numbers)

Year 7 \_\_\_\_\_ Dollars (\$) \_\_\_\_\_  
(in words) (in numbers)

**Non-collusion affidavit**

The Proposer, by its officers and its agents or representatives present at the time of filing this Proposal, being duly sworn on their oaths say, that neither they nor any of them have in any way, directly or indirectly, entered into any arrangement or agreement with any other Proposer, or with any officer of the Owner or Owner’s representative whereby such affiant or affiants or either of them has paid or is to pay such other Proposer or officer any sum of money, or has given or is to give to such other Proposer or officer anything of value whatever, or such affiant or affiants or either of them has not directly or indirectly, entered into any arrangement or agreement with any other free competition into the letting of the contract sought for by the attached prices that no inducement of any form or character other than that which appears on the face of the Proposal will be suggested, offered, paid or delivered to any person whomsoever to influence the acceptance of the Proposal or awarding of the Contract, nor has this Proposer any agreement or understanding of any kind whatsoever, with any person whomsoever to pay, deliver to, or share with any other person in any way or manner, any of the proceeds of the Contractor sought by this Proposal.

Submitted By:

Firm Name \_\_\_\_\_

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

**SIGNATURES**

If PROPOSER is:

A. An Individual

By \_\_\_\_\_ (SEAL)  
(Individual's Name)

Doing business as \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Phone Number: \_\_\_\_\_

**B. A Partnership**

By \_\_\_\_\_ (SEAL)  
(Firm Name)

\_\_\_\_\_  
\_\_\_\_\_  
(General Partner)

Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone Number: \_\_\_\_\_

**C. A Corporation**

By \_\_\_\_\_ (SEAL)  
(Corporation Name)

\_\_\_\_\_  
(State of Incorporation)

By \_\_\_\_\_  
(Name of Person Authorized to Sign)

Title \_\_\_\_\_

Attest \_\_\_\_\_  
(Secretary)

Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone Number: \_\_\_\_\_

**D. A Joint Venture**

By \_\_\_\_\_  
(Name)

Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By \_\_\_\_\_  
(Name)

Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Each joint venture member must sign. The manner of signing for each individual partnership and corporation that is party to joint venture should be in manner indicated above.

## **CITY OF MEMPHIS SERVICE AGREEMENT GENERAL TERMS AND CONDITIONS (PROCUREMENT ATTACHMENT)**

**The successful Contractor will be required to comply with and execute an agreement specifying the following general terms and conditions, as may be modified and/or supplemented at the City's sole discretion:**

**REPORTS.** Upon request, the Contractor shall prepare and submit reports of its activities, funded under this agreement, to the originating department of the City. The reports shall include an itemization of the use of the City's funds, inclusive of specific services delivered by the Contractor. Any such reports provided to the City shall be prepared with the understanding that the City may make such reports available to the public.

In addition, Contractor shall submit and, as necessary, update subcontractor information (including but not limited to payments thereto), for **any and all subcontractors** used on City project(s), in the City's compliance tracking software, B2GNow. The City shall have the right to withhold future disbursement of funds under this Agreement and any future Agreements until the requirements of this provision have been met.

**ENTIRE AGREEMENT.** This Agreement constitutes the full and final understanding of the parties with respect to the subject matter hereof and supersedes and replaces any and all prior or contemporaneous agreements or understandings, whether written or oral, express or implied, between the parties with respect to the subject matter of the Agreement.

**STANDARD OF PERFORMANCE.** All services by the Contractor shall be performed in compliance with the specified requirements, in a manner satisfactory to the City, and in accordance with the generally accepted business practices and procedures of the City and pursuant to the governing rules, practices and regulations of the industry, based on the type of services performed hereunder.

**HEADINGS.** Titles and headings used herein are for the convenience of reference only and shall be disregarded completely in the interpretation and validity of this Agreement or any of its terms.

**MODIFICATION AND AMENDMENT.** This Agreement shall be amended or modified only by a written document signed by the parties hereto, in accordance with applicable laws and regulations.

**CONFIDENTIALITY.** While performing work under this Agreement, the Contractor may gain access to proprietary and/or confidential information that, if disclosed to third parties, may be damaging to the City or its officials or employees. Such information shall include materials considered to be confidential information as a matter of law (e.g., personnel records), and shall also include (i) all materials in any form developed or created by the City related to funding and financial and business information; (ii) all information owned, possessed or used by the Contractor, which is communicated to, learned, developed or otherwise acquired by the Contractor in the performance of the Services for the City; (iii) the terms, conditions and pricing contained herein; and (iv) any other information that the Contractor has been advised by the City is confidential, privileged or proprietary. Confidential information, as used in this Agreement, shall not include (i) information in the Contractor's possession prior to disclosure by the City; (ii) information generally available to the public or that becomes available to the public through a source other than the City, or (iii) information that was rightfully obtained by the Contractor from a third party who is under no obligation of confidentiality to the City with respect to such information. The Contractor agrees that it will accept and hold confidential information obtained from the City in confidence at all times during and after termination of this Agreement. The Contractor shall neither use nor disclose such information, except as provided in this Agreement or as required by law, without the prior written permission of the City.

The Contractor acknowledges and agrees that a breach of this section by the Contractor will cause the City irreparable injury and damage; therefore, the Contractor expressly agrees that the City shall be entitled to

injunctive or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement. The Contractor agrees that it will disclose confidential information only to those employees who have a right to know, and shall require its employees, agents, and subcontractors to comply with the requirements of this provision and the requirements of the provisions herein titled "Public Statements" and "Rights in Data."

**PUBLIC STATEMENTS.** The Contractor shall not make any announcement, release any information, or authorize or participate in any interview concerning this Agreement and goods and/or services required herein, without obtaining prior written consent from the City. The Contractor shall require its employees, agents, and subcontractors to comply with the requirements of this provision. This provision shall survive the expiration or termination of this Agreement.

**RIGHTS IN DATA.** The Contractor agrees that all reports, studies, plans, models, drawings, specifications, and any other information or data of any type produced under this Agreement, whether or not the same is accepted or rejected by the City, shall remain the property of the City and shall not be published by the Contractor or any other party without the express prior written consent of the City. In implementing the foregoing, the Contractor hereby grants and assigns to the City all rights and claims of whatever nature, whether now or hereafter, arising in and to any and all of such reports, studies, plans, models, drawings, specifications, and other information or data and shall cooperate fully with the City in any steps the City may take to obtain copyrights, trademark or like protections with respect thereto. The signing of this Agreement shall constitute a complete transfer of ownership, intellectual property and copyright of all documents from the Contractor to the City upon the Contractor's delivery of such documents and/or information to the City or upon completion of the Project, whichever occurs first. The Contractor shall not construe such transfer as a grant for usage nor can the Contractor revoke it.

**EMPLOYMENT OF CITY WORKERS.** The Contractor shall not engage, on a full, part-time or any other basis during the term of this Agreement, any professional or technical personnel who are or have been at any time during the term of this Agreement in the employ of the City.

**CONTRACTOR'S PERSONNEL.** The Contractor certifies that it presently has adequate qualified personnel to perform all services required under this Agreement and that all work performed under this Agreement shall be supervised by the Contractor. Contractor will make its personnel aware of and cause them to comply with the City's policies that have been made known to Contractor while performing pursuant to this Agreement. The Contractor further certifies that all of its employees assigned to perform any work hereunder shall have such knowledge and experience as required to perform the duties assigned to them. Any employee of the Contractor who, in the opinion of the City, is incompetent, whose conduct becomes detrimental to the work, or whom the City deems to be unsatisfactory for any reason, shall immediately be removed from association with the services hereunder per the City's request. Upon such request, the Contractor shall use all reasonable efforts to promptly replace such employee(s) with substitute employee(s) having appropriate skills and training. Contractor is responsible for the acts or omissions of its personnel under or relating to this Agreement.

The Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Agreement, all employee compensation and benefits. The City shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, health, welfare and disability benefits, Federal and local taxes, or other compensation, benefits or taxes for any personnel provided on behalf of the Contractor. In addition, the Contractor shall be solely liable and responsible for any and all workers' compensation benefits to any person as a result of injuries arising from or connected with any work performed by or on behalf of the Contractor pursuant to this Agreement.

**INDEPENDENT CONTRACTORS.** Nothing in this Agreement shall be deemed or construed to represent that the Contractor, or any of the Contractor's employees or agents, are the agents, representatives, or employees of the City. The Contractor acknowledges that it is an independent contractor over the details and means for performing the services hereunder. Anything in this Agreement which may appear to give the City the right to direct the Contractor as to the details of the performance of its obligations hereunder or to exercise a measure of control over the Contractor is solely for purposes of compliance with local, state and federal regulations and means the Contractor will follow the desires of the City only as to the intended results of the scope of this Agreement.

It is further expressly agreed and understood by the Contractor that neither it nor its employees or agents shall hold itself out contrary to the terms of this paragraph, and the City shall not be liable for any representation, act or omission of the Contractor contrary to the provisions hereof..

## **TERMINATION**

1. It shall be cause for the immediate termination of this Agreement if, after its execution, the City determines that either:

a. the Contractor or any of its principals, partners or corporate officers, if a corporation, including the corporation itself, has plead nolo contendere, or has plead or been found guilty of a criminal violation, whether state or federal, involving, but not limited to, governmental sales or purchases, including but not limited to the rigging of bids, price fixing, misappropriation of government funds, or any other collusive and illegal activity pertaining to bidding and governmental contracting; or

b. the Contractor subcontracted, assigned, delegated, or transferred its rights, obligations or interests, voluntarily or involuntarily, under this Agreement without the City's consent or approval; or

c. the Contractor has filed bankruptcy, has been adjudicated bankrupt, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer is appointed to take charge of all or part of the Contractor's assets.

2. The City may cancel/terminate this Agreement, in whole or in part, upon providing written notice to the Contractor of the City's intention to terminate the Agreement as a result of Contractor's failure to provide the goods/services specified under this Agreement or in violation(s) of any of the terms herein, and the Contractor has failed to cure such breach within (TBD) business days of such notice. The City may reject the goods/services and cancel this Agreement for any goods/services rendered or to be rendered hereunder. At its option, the City may return the rejected portion of such products to Contractor at its expense or hold the same for such disposal as Contractor shall indicate. In the event of any such rejection/termination, the City shall, at the City's option, have the right to obtain like goods/services elsewhere or to take over the work and prosecute the same to completion, both at the Contractor's expense; and in such event, the City may take possession of and utilize in completing the work, such materials, appliances, etc. as may be on the site of the work and necessary therefore. The Contractor shall be liable to the City for any loss, damage, or additional cost incurred thereby, including but not limited to any difference between the cost for procuring such like services and the price specified herein, attorneys' fees and court costs.

3. Notwithstanding the foregoing or any section herein to the contrary, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the Contractor, and the City may withhold any payments to the Contractor, for the purpose of setoff, until such time as the exact amount of damages due the City from the Contractor is determined.

4. The City may, in its sole discretion, suspend and/or terminate this Agreement for convenience upon giving (TBD) business days prior written notice to the Contractor. In the event a purported termination for cause by the City is in error, then such termination may, at the City's sole discretion, be deemed to be a termination for convenience under this section. In the event of such termination, the Contractor shall be entitled to receive just and equitable compensation, as determined by the City, for any goods accepted and/or satisfactory authorized work performed in accordance with the Agreement up to the termination date; but in no event shall the City be liable to the Contractor for expenses incurred after the termination date. All goods accepted by the City/services completed by the Contractor prior to the Termination Date shall be documented and all tangible work documents shall be transferred to the City prior to payment for services rendered, and shall become the sole property of the City. Such termination by the City shall not be deemed a Breach of Contract by the City, and the Contractor shall not be compensated for any anticipatory profits, or other damages of any description, that have not been earned as of the date of termination.

5. The Contractor shall deliver to the City all hard copy and electronic files maintained on behalf of the City within thirty (30) calendar days of termination of this Agreement. Upon reasonable request, the City reserves the right to obtain such information prior to the termination of this Agreement.

**COMPENSATION FOR CORRECTIONS.** No compensation shall be due or payable to the Contractor pursuant to this Agreement for any of the services performed by the Contractor to correct services, when such corrections are required as a direct result of negligence by the Contractor to properly fulfill any of its obligations herein.

**CITY'S RIGHT TO WITHHOLD CERTAIN AMOUNTS AND MAKE APPLICATION THEREOF.** If evidence is produced before the final settlement of all or any balances that the Contractor has failed to pay laborers employed on his work or failed to pay for materials used therein, or if the City has reason to suspect the same, the City may withhold such balances and upon evidence satisfactory to the City as to the amount due for such labor and materials, the City, acting as the agent of the Contractor, may settle and pay for the same and charge the amounts to the Contractor and deduct the same from the said balance or balances.

**REMEDIES CUMULATIVE.** All remedies available to the City herein are cumulative and shall be in addition to all other rights and remedies provided by law. The termination, expiration, or suspension of this Agreement shall not limit the City from pursuing other remedies available at law or in equity.

**SUBCONTRACTING, ASSIGNMENT or TRANSFER.** The Contractor shall not subcontract, assign, delegate or transfer all or part of its rights, responsibilities, or interest under this Agreement without the prior written consent of the City. Any purported assignment, transfer, or delegation in violation of this Section shall be voidable by the City. No subcontracting, assignment, delegation or transfer shall relieve the Contractor from performance of its duties hereunder; neither shall the City be responsible for the fulfillment of the Contractor's obligations to its transferors or subcontractors. Upon request of the City, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the transfer. At any time, City may, in its sole discretion, revoke its prior approval of a subcontractor and direct Contractor to replace such subcontractor or perform the services that were being performed by such contractor itself if the City finds in its reasonable judgment that (i) such subcontractor's performance is materially deficient or otherwise unacceptable to City; (ii) good faith doubts exist concerning the subcontractor's ability to render future performance because of changes in the subcontractor's ownership, management, financial condition, or otherwise; or (iii) there have been one (1) or more material misrepresentations by or concerning the subcontractor. The City reserves the right to terminate the Agreement if Contractor, in whole or in part, is acquired by another entity during the term of this Agreement.

In the event the Contractor is allowed to sublet any part of the Agreement, the Contractor shall be as fully responsible to the City for the acts and omissions of the subcontractor and of the persons employed or directly or indirectly employed by the subcontractor as he is for the acts and omissions of persons employed by Contractor. The Contractor shall not be allowed to subcontract more than (TBD)% of the work on this project. The computation for percentages shall be based on monetary values.

**CONFLICT OF INTEREST.** Neither party shall engage in any conduct or activity in the performance of this Agreement that constitutes a conflict of interest under applicable federal, state or local laws, rules and regulations.

The Contractor covenants that it has no public or private interest, and shall not acquire, any interest, directly or indirectly, which would conflict in any manner with the performance required under this Agreement, and the Contractor covenants that no gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer, official, agent or employee of the City, in an effort to secure the Agreement or favorable treatment with respect to any determinations concerning the performance of the Agreement. The Contractor warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of the City as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor or consultant to the Contractor in connection with any work contemplated or performed relative to this Agreement. For breach or violation of this provision, the City shall have the right to recover or withhold the full amount of such gratuities.

**COVENANT AGAINST CONTINGENT FEES.** The Contractor warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this provision, the City shall have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

**GENERAL COMPLIANCE WITH LAWS.** The Contractor certifies that it is qualified or will take steps necessary to qualify to do business in the State of Tennessee and that it shall take such action as, from time to time, may be necessary to remain so qualified and shall obtain and maintain, at its own expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Agreement. Such permits and licenses shall be made available to the City, upon request.

The Contractor is assumed to be familiar with and shall comply with all applicable federal, state, and local laws, ordinances, and regulations in performing any of its obligations under this Agreement, including but not limited to the City of Memphis Living Wage Ordinance, the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA), and the Americans with Disabilities Act (ADA). The Contractor shall promptly notify the City of any conflict discovered between this Agreement and any applicable laws, rules, regulations, and/or permits and licenses, and await resolution of the conflict.

**NON-DISCRIMINATION.** The Contractor hereby agrees to comply with Title VI and Title VII of the Civil Rights Act of 1964 and all other federal, state or local laws prohibiting discrimination, which provide in whole or in part, that no person shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this Agreement or in the Contractor's employment practices on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, State or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination, and shall post in conspicuous places available to all employees and applicants notices of nondiscrimination. In the

event the Contractor fails to comply with the City's non-discrimination policy and any and all other laws prohibiting discrimination, this Agreement may be canceled, terminated or suspended in whole or in part by the City.

The City reserves the right to investigate any claims of illegal discrimination by the Contractor and in the event a finding of discrimination is made and upon written notification thereof, the Contractor shall take all necessary steps to cure and rectify such action to the reasonable satisfaction of the City. The Contractor's failure or refusal to do so shall be cause for termination of this Agreement in accordance with the terms of this Agreement.

**EMPLOYMENT OF ILLEGAL IMMIGRANTS.** The Contractor hereby certifies to comply with all applicable federal and state laws prohibiting the employment of individuals not legally authorized to work in the United States. Contractor shall not knowingly (i) utilize the services of illegal immigrants; or (ii) utilize the services of any subcontractor who will utilize the services of illegal immigrants in the performance of the contract. In the event the Contractor fails to comply with any and all local, state and federal laws prohibiting the employment of individuals not legally authorized to work in the United States, this agreement may be canceled, terminated or suspended in whole or in part by the City, and the Contractor may be prohibited from contracting to supply goods and/or services to the City for a period of one (1) year from the date of discovery of the usage of illegal immigrant services in the performance of a contract with the City.

**SEVERABILITY.** If any terms or provisions of this Agreement are held to be illegal, invalid or unenforceable as a matter of law, such provision shall be fully severable, and the remaining provisions of this Agreement shall remain in full force and effect and continue to be binding and shall not be affected by such provision or by its severance herefrom. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, the parties may negotiate in good faith to replace such provision with a valid, legal and enforceable provision that most closely approximates the parties' original intent.

**NO WAIVER OF CONTRACTUAL RIGHT.** No term or provision of this Agreement, or of any document executed pursuant hereto, shall be held to be waived, modified or deleted unless in writing and executed by the parties hereto and specifically identified as a waiver of any succeeding breach thereto or of any other provision herein contained. No delay or failure of the City to enforce any right or provision of this Agreement or in any document executed pursuant hereto shall operate as a waiver or relinquishment of the City's right to subsequently enforce and compel strict compliance with such provision or any other provision herein or in any document related hereto.

**SUBJECT TO FUNDING.** This Agreement is subject to availability and annual appropriation of funds by the Memphis City Council. In the event sufficient funds for this Agreement are not available or appropriated by the Memphis City Council for any of its fiscal period during the term hereof, then the City shall immediately terminate this Agreement upon written notice to the Contractor. In the event of such termination, the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work performed up to the termination date. Such termination by the City shall not be deemed a Breach of Contract by the City, and the Contractor shall have no right to any actual, general, specific, incidental, consequential, or any other damages whatsoever of any description or amount that have not been earned as of the date of termination.

**CONTRACTING WITH SMALL AND MINORITY FIRMS AND WOMEN'S BUSINESS ENTERPRISE.** The Contractor shall take affirmative action to ensure that small, minority-owned and women-owned businesses, which have been certified by the City, are utilized when possible as sources of supplies, equipment, construction and services.

**PUBLIC RECORDS.** Notwithstanding anything to the contrary contained herein or within any other document supplied to the City by the Contractor, the Contractor understands and acknowledges that the City is a governmental entity subject to the State of Tennessee Public Records Act, and any reports, data or other

information supplied to the City regarding services performed hereunder may be subject to disclosure as a public record in accordance with the laws of the State of Tennessee.

**ORGANIZATION STATUS AND AUTHORITY.** The Contractor represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the state of Tennessee; it has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary.

The execution, delivery and performance of this Agreement by the Contractor has been duly authorized by all requisite action and will not violate any provision of law, any order of any court or other agency of government, the organizational documents of the Contractor, any provision of any indenture, agreement or other instrument to which the Contractor is a party, or by which the Contractor's respective properties or assets are bound, in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets.

Each person executing this Agreement represents that: he/she is lawfully authorized to sign the Agreement on behalf of the party he/she represents and execution of the Agreement was duly and regularly authorized by the party's governing body.

**WARRANTY.** The Contractor warrants to the City that all goods/work shall be free from defects in design and faulty or improper workmanship and shall be in strict compliance with the terms of this Agreement. This warranty shall be effective for a period of not less than one year from the date of acceptance by the City of such goods and/or services as satisfactorily complete, and shall be in addition to all other warranties, express, implied or statutory. The warranty shall survive the termination or expiration of this Agreement.

**RECORDS AND AUDITS.** The Contractor shall make and keep as the same accrue, full and complete books, documents, accounting records and other evidence, that specifically relate to this Agreement, in accordance with generally accepted accounting principles. The Contractor shall retain such records, and shall make same available to the City, upon reasonable request, during the term of this Agreement, and for a minimum period of three (3) full years after completion of the contract obligations or from the date of final payment under this Agreement, whichever is later. In the event any litigation, claim or audit is instituted prior to the expiration of the required three-year retention period, such records shall be retained until such litigation, claim or audit finding has been resolved. Copies of said records shall be furnished to the City upon request.

Upon reasonable notice, the Contractor shall permit the City, any other governmental entity, any agency participating in the funding of this Agreement, or any of their duly authorized representatives, to enter the Contractor's offices, during regular business hours, to interview employees and to inspect and/or copy said records and books of accounts together with any and all documents pertaining hereto that may be kept, maintained or possessed by the Contractor. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places.

**DISPUTE RESOLUTION.** In the event of any dispute(s), controversy, or claim arising out of or relating to this Agreement or the breach thereof, the parties agree that they shall first use their best efforts in an attempt to settle the dispute through negotiations involving themselves or their representatives as they each deem appropriate.

Any dispute concerning a question of fact in connection with this Agreement between the Contractor and the City shall be referred in successive order for resolution, first to the City Purchasing Agent, second to the City Attorney, and thirdly, to the Mayor of the City of Memphis, whose decision regarding same shall be final.

**FORCE MAJEURE.** The City shall not be deemed in default hereunder, nor shall the City be responsible for any delay, interruption, or cessation in the performance of its obligations under this Agreement where such failure of performance is the result of any force majeure event, including, but not limited to, acts of God, riots, wars, strikes, epidemics, acts, governmental authorities or acts of nature or other similar cause beyond its control.

**SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

**NOTICES.** All notices and other communications required or permitted to be given hereunder shall be written and hand delivered with signed receipt; delivered by facsimile; delivered by a nationally recognized overnight courier; or mailed via certified U.S. mail, postage prepaid and return receipt requested. All notices shall be deemed received and effectively given as follows: (i) if by hand delivery, on the date of delivery; (ii) if by fax, on the day the fax transmission is received at the receiving location and receipt is telephonically confirmed by the sender; (iii) if by delivery via U.S. mail, on the date of receipt appearing on a return receipt card; or (iv) if by overnight courier, on the date receipt is confirmed by such courier service. All notices must be addressed to the respective party at the following addresses or to such other person or address as either party may designate in writing and deliver as provided herein.

**NO THIRD PARTY BENEFICIARY.** This Agreement is entered into solely between, and may be enforced only by, City and Contractor. Unless otherwise specified herein, this Agreement shall not be deemed to create any rights in third parties, including suppliers or customers of either party.

**SERVICE MARKS.** The Contractor agrees that it shall not, without City's prior written consent, use the name, service mark or trademarks of the City.

**NUMBER AND GENDER.** Unless the context requires otherwise, (i) use of a specific gender imports the other gender(s); and (ii) use of the singular imports the plural and vice versa.

**SURVIVAL.** The parties hereto acknowledge that provisions that require or contemplate performance or observance after expiration or termination of this Agreement shall survive the expiration or termination of this Agreement and continue in full force and effect.

**CITY LIABILITY.** The City shall have no liability except as specifically provided in this Agreement. The City, by execution of this Agreement, assumes no liability for damages caused to persons or property by reason of Contractor providing services herein or for injury to any employee, agent or subcontractor of the Contractor performing under this Agreement.

**INDEMNIFICATION.** Contractor shall indemnify, defend, save and hold harmless the City and its officers, agents and employees from and against any and all claims, demands, suits, actions, penalties, damages, settlements, costs, expenses, or other liabilities of any kind and character, including without limitation attorney fees and litigation expenses, arising out of or in connection with the breach of this Agreement by Contractor, its employees, subcontractors, or agents, or any negligent acts or omission of Contractor, its employees, subcontractors, or agents, which occurs pursuant to the performance of this Agreement, excepting those losses or damages directly caused solely by the acts, errors, or omissions of the City or any of its officers, agents or employees. This indemnification shall survive the expiration or termination of this Agreement.

The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the Contractor's responsibility to indemnify, defend, save and hold harmless the City or its elected or appointed officials, officers, employees, agents, assigns, and instrumentalities as herein required.

The City reserves the right to appoint its own counsel regarding any matter defended hereunder. The Contractor acknowledges that the City has no obligation to provide legal counsel or defense to the Contractor, its employees or subcontractors in the event that a suit, claim or action of any character is brought by any person not a party to this agreement against the Contractor as a result of or relating to obligations under this agreement. The City shall have no obligation for the payment of any judgments or the settlement of any claims asserted against the Contractor or its subcontractors or employees as a result of or relating to the Contractor's obligations hereunder.

The Contractor shall immediately notify the City c/o City Attorney; 125 North Main, Suite 336; Memphis, TN 38103, of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from or relating to the Contractor's obligations under this Agreement and agrees to cooperate, assist and consult with the City in the defense or investigation thereof.

**PATENT INDEMNIFICATION.** The Contractor warrants that any goods/services furnished hereunder do not infringe or violate any United States or Canadian patent, trademark, copyright, trade secret, or any other proprietary right of any third party; that it shall defend all suits that may arise with respect thereto; and that it shall indemnify, defend, save and hold harmless the City, its officials, employees, agents, successors and assigns, from and against all liabilities, suits, claims, damages, costs or expenses, including without limitation attorney and expert witness fees, for or by reason of any actual or alleged claim the goods/services purchased by City hereunder infringe any patent, copyright, or is a violation of trade secret disclosure laws, whether by reason of the Contractor's purchase or otherwise. This indemnification shall survive the expiration or termination of this Agreement.

**CITY LIABILITY.** The City shall have no liability except as specifically provided in this Agreement. The City, by execution of this Agreement, assumes no liability for damages caused to persons or property by reason of Contractor providing services herein or for injury to any employee, agent or subcontractor of the Contractor performing under this Agreement.

**GOVERNING LAW, JURISDICTION AND VENUE.** The terms and conditions of this Agreement shall be construed in accordance with and governed by the laws of the State of Tennessee. All actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Agreement shall be instituted and litigated in the state or federal courts of the State of Tennessee, located in Shelby County, Tennessee, without regard to conflicts of laws principles. In accordance herewith, the parties to this Agreement submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.